NO. 85-890

Supreme Court, U.S.
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CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

FRANK B. HUBBY, M.D.,

Petitioner,

v.

HISTORIC SAVANNAH FOUNDATION, INC. GEORGIA ENDOWMENT FOR THE HUMANITIES, INC.; GEORGIA SEMIQUINCENTENARY COMMISSION; and MR. B.H. LEVY, CHAIRMAN,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTION PRESENTED

Whether the Court of Appeals for the Eleventh Circuit erred in affirming the opinion of the District Court for the Southern District of Georgia, finding that the District Court had acted well within its discretion in awarding the Defendants attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

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NO. 85-890

IN THE

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OCTOBER TERM, 1985

FRANK B. HUBBY, M.D.,

Petitioner,

v.

HISTORIC SAVANNAH FOUNDATION, INC.; GEORGIA ENDOWMENT FOR THE HUMANITIES, INC.; GEORGIA SEMIQUINCENTENARY COMMISSION; and MR. B.H. LEVY, CHAIRMAN,

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

The Respondents, Historic Savannah Foundation, Inc., Georgia Endowment for

the Humanities, Inc., Georgia Semiquincentenary Commission, and Mr. B.H. Levy, Chairman, urge the Supreme Court to deny the Petition for a Writ of Certiorari to review the decision of the United States Court of Appeals for the Eleventh Circuit entered in this case on July 31, 1985, and to conclude this needlessly protracted litigation.

The decision of the Court of Appeals is clearly correct. The Petitioner has failed to show that the decision is in conflict with applicable decisions of other circuit courts or of this Court, nor has the Petitioner shown that this case is of any national importance.

REASONS FOR DENYING THE WRIT

A. THE COURT OF APPEALS FOR THE ELEVENTH CIRCUIT CORRECTLY FOUND THAT THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN APPLYING THE LAW TO THE FACTS OF THIS CASE AND AWARDING THE DEFENDANTS REASONABLE ATTORNEYS FEES AND COSTS.

The Court of Appeals for the Eleventh Circuit found that the District Court not only applied the appropriate legal standard in awarding attorneys' fees to the Defendants but also correctly applied that standard to the facts of this case and therefore acted well within its discretion in making a reasonable award. The Order of the District Court, which has been included in the Appendix to the Petition for Writ of Certiorari speaks for itself, as does the record of these

proceedings. See Docket Sheet in Appendix.

For the third time, Petitioner seeks review by this Court, insisting that this First Amendment rights were violated and that he should not have to pay the attorneys' fees awarded the prevailing Defendants. The District Court listened carefully to Petitioner, but when it came time for Petitioner to listen to the court, Petitioner refused to listen and, instead, sought and was denied emergency review of the District Court's denial of his application for a temporary restraining order by both the Court of Appeals for the Eleventh Circuit and this Court. Petitioner then returned to the District Court, demanding a jury trial and requesting "oral argument on all important

motions." Construing Petitioner's Complaint most liberally, the District Court denied a motion to dismiss and allowed Petitioner to conduct discovery to produce facts to support a claim for damages under 42 U.S.C. § 1983.

After Petitioner had conducted extensive discovery, the Defendants moved for summary judgment. The District Court granted the motion, finding neither State action nor a deprivation of Petitioner's First Amendment rights. Again, Petitioner sought review in the Court of Appeals, which summarily affirmed the summary judgment and taxed costs against Petitioner, whereupon Petitioner sought review by this Court, which was denied. In the meantime, however, the Defendants had moved the District Court

for an award of fees and costs. After careful consideration of the motions and the opposition thereto, the District Court awarded attorneys' fees to the prevailing Defendants pursuant to 42 U.S.C. § 1988. Hubby v. Historic Savannah Foundation, Inc., 623 F. Supp. 637 (S.D. Ga. 1985).

Applying the standard adopted by this Court in Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978), and subsequently applied to other civil rights cases in Hughes v. Rowe, 449 U.S. 5, 14-15 (1980), the District Court found that

> it must have been apparent to [Petitioner] Hubby shortly after commencement of his claim that his pursuit was plainly an exercise in futility. Doubtless, his claim was

"frivolous, unreasonable or without foundation" even though not brought in subjective bad faith.

623 F. Supp. at 642. The District Court then determined an appropriate award by applying the guidelines established by this Court for determining appropriate awards under 42 U.S.C. § 1988, as articulated in Blum v. Stenson, 465 U.S. 886 (1984), and in Hensley v. Eckerhart, 461 U.S. 424 (1983). 623 F. Supp. at 642-43. The District Court also concluded that enhancement of the lodestar figure was not warranted in this case and supported this conclusion with an analysis of the factors identified in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974). 623 F. Supp. 644-45.

In reviewing the award made by the District Court, the Court of Appeals for the Eleventh Circuit properly concluded "that the district court acted well within its discretion in awarding the Defendants attorney's fees and costs."

B. PETITIONER HAS NOT DEMONSTRATED THAT THE DECISION OF THE COURT OF APPEALS FOR THE ELEVENTH CIRCUIT IS INCONSISTENT WITH THE APPLICABLE DECISIONS OF OTHER CIRCUIT COURTS OR OF THIS COURT.

The legislative purpose behind 42 U.S.C. § 1988 is not only to encourage the prosecution of meritorious civil rights claims, but also to discourage the filing of meritless claims. Therefore, the statute allows for awards to prevailing defendants "where

the suit was vexatious, frivolous, or brought to harass or embarrass the defendant." Hensley v. Eckerhart, 461 U.S. 424 n.2 (1983) [citing H.R. Rep. No. 94-1558, p. 7 (1976) and Christiansburg Garment Co. v. EEOC, 434 U.S. 412, 421 (1978)]. Thus, the statute is also intended to discourage potential plaintiffs from wasting the Courts' time and attention with frivolous and vexatious claims.

The District Court rightfully concluded that Petitioner, "a highly intelligent professional man," (623 F. Supp. at 641-42) "blatantly has disregarded the cost of his litigious exercise to both the defendants and to society." 623 F. Supp. at 642. On the basis of this conclusion, the District Court awarded attorneys' fees to the

prevailing Defendants. This award was affirmed by the Court of Appeals for the Eleventh Circuit and is consistent with the applicable decisions of both the courts of appeals and this Court. E.g., Hughes v. Rowe, 449 U.S. 5, 14-15 (1980) (applying Christiansburg standard to 42 U.S.C. § 1983 suit); Christiansburg Garment Co. v. EEOC, 434 U.S. 412, 420-22 (1978) (fee award to prevailing defendant in Title VII suit appropriate where suit brought without foundation); Eastway Construction Corp. v. City of New York, 762 F.2d 243, 251-52 (2d Cir. 1985) (fees awarded prevailing defendant in 42 U.S.C. § 1983 suit); Hardin v. White Mountain Apache Tribe, 761 F.2d 1285, 1289 (9th Cir. 1985) (fees awarded prevailing defendant where nonmember of tribe

brought civil rights suit barred by tribal immunity); Lotz Realty Co. v. United States Department of Housing and Urban Development, 717 F.2d 929, 931-32 (4th Cir. 1983) (fees awarded prevailing defendant in suit under Fair Housing Act); Zeigler v. Jackson, 716 F.2d 847, 850 (11th Cir. 1983) (fees awarded prevailing defendants in 42 U.S.C. § 1983 suit based upon failure to admit plaintiff for police training due to prior conviction); Boatowners & Tenants Ass'n v. Port of Seattle, 716 F.2d 669, 674 (9th Cir. 1983) (fees awarded prevailing defendant against plaintiff claiming marina's rates unconstitutional because profit motivated); Campbell v. Cook, 706 F.2d 1084, 1086-87 (10th Cir. 1983) (fees awarded prevailing defendant who was

represented by public service firm); Werch v. City of Berlin, 673 F.2d 192, 195-96 (7th Cir. 1982) (fees awarded prevailing defendant where taxpayer's suit under 42 U.S.C. § 1983 found meritless and where taxpayer continued to litigate); Harris v. Group Health Ass'n, 662 F.2d 869, 873-74 (D.C. Cir. 1981) (fees awarded prevailing defendant for frivolous appeal of 42 U.S.C. § 1981 suit); Reichenberger v. Pritchard, 660 F.2d 280, 287-89 (7th Cir. 1981) (fees awarded prevailing defendant in suit under 42 U.S.C. § 1983 claiming violation of First Amendment rights); Glass v. Pfeffer, 657 F.2d 252, 257 (10th Cir. 1981) (fees awarded prevailing defendant sued under 42 U.S.C. §§ 1981 and 1985 for mistaken arrest); Tonti v. Petropoulos,

656 F.2d 212, 217 (6th Cir. 1981) (fees awarded prevailing defendants, judge and administrator, for frivolous 42 U.S.C. § 1983 suit claiming unconstitutional probate proceeding); Harbulak v. County of Suffolk, 654 F.2d 194, 196-98 (2d Cir. 1981) (fees awarded prevailing defendant in suit brought by motorist under 42 U.S.C. § 1983); Flint v. Haynes, 651 F.2d 970, 972-74 (4th Cir. 1981), cert. denied, 454 U.S. 1151 (1982) (fees awarded prevailing defendant against prisoner proceeding in forma pauperis under 42 U.S.C. § 1983); Church of Scientology v. Cazares, 638 F.2d 1272, 1290-92 (5th Cir. 1981) (fees awarded prevailing defendant in frivolous 42 U.S.C. § 1983 suit); Prochaska v. Marcoux, 632 F.2d 848, 853-54 (10th Cir. 1980), cert.

denied, 451 U.S. 984 (1981) (fees awarded prevailing defendant in 42 U.S.C. § 1983 suit brought by boatowner cited for safety and registration violations); Bowers v. Kraft Foods Corp., 606 F.2d 816, 818 (8th Cir. 1979) (fees awarded prevailing defendant in 42 U.S.C. § 1981 race discrimination suit); Patzkowski v. United States, 576 F.2d 134, 135-39 (8th Cir. 1978) (prevailing taxpayer-defendant can recover fees under 42 U.S.C. § 1988 where government sued him in bad faith); Lopez v. Aransas County Independent School District, 570 F.2d 541, 545 (5th Cir. 1978) (fees awarded prevailing defendant in 42 U.S.C. § 1983 suit claiming race discrimination).

CONCLUSION

In short, what Petitioner perceives to be a violation of his First Amendment rights, the law does not. Despite having been told so repeatedly, Petitioner has persisted in pursuing his frivolous claim in the District Court, in the Court of Appeals, and, for the third time, in this Court. Petitioner even terminated the employment of his own counsel and chose to proceed pro se, perhaps realizing just how costly his stubborn litigiousness would be, and, despite discouragement by family, friends, and the courts, Petitioner continues to pursue his frivolous claim.

The United States Court of Appeals for the Eleventh Circuit found that the District Court acted well within its

discretion in awarding attorneys' fees and costs to the prevailing Defendants in this case. The Court of Appeals also found that the District Court applied the correct legal standard required by 42 U.S.C. § 1988 and confirmed by this Court. Neither decision merits review by this Court. Accordingly, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

MICHAEL J. BOWERS
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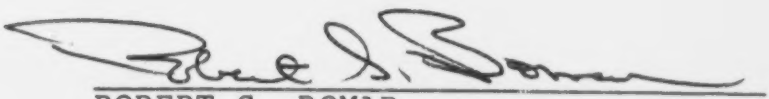
First Assistant Attorney General



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CERTIFICATE OF SERVICE AND MAILING

I, ROBERT S. BOMAR, a member of the bar of the Supreme Court of the United States and counsel of record for the Respondent Georgia Semiquincentenary Commission and on behalf of Respondents Georgia Endowment for the Humanities, Inc. and the Historic Savannah Foundation, Inc., hereby certify that in accordance with the rules of the Supreme Court of the United States, I have this day served a true and correct copy of this Brief in Opposition by the Respondents upon the Petitioner by depositing three copies of same in the United States mail with proper address and adequate postage to:

Frank B. Hubby, M.D.
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William F. Braziel, Jr., Esq.
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I further certify and affirm that in accordance with the rules of the Supreme Court of the United States, I have this day mailed forty (40) copies of this Brief in Opposition by the Respondents to the Clerk of the U.S. Supreme Court with proper address and adequate postate, as follows:

Clerk, U.S. Supreme Court
1 First Street, N.E.
Washington, D.C. 20543

This 13th day of March, 1986.

ROBERT S. BOMAR
Senior Assistant Attorney General

Sworn to and subscribed
before me this 13th day
of March, 1986.

Phyllis E. Waller
NOTARY PUBLIC

MY COMMISSION EXPIRES: Notary Public, State at Large My Commission Expires Mar. 19, 1989

DIST.	OFF.	DOCKET YR.	DOCKET NUMBER	FILING DATE MO	DAY	YEAR	J	N/S	O	D PTF	D DEF	R 23	$ DEMAND	JUDGE/ MAG. NO.	COUNTY	JURY DEM.	DOCKET YR.	DOCKET NUMBER
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PLAINTIFFS

FRANK B. HUBBY, M. D.

CLOSED
NOV 23 1983

ReOPENED 3-7-83

DEFENDANTS

1. HISTORIC SAVANNAH FOUNDATION, INC.
✓ 2. GEORGIA ENDOWMENT FOR HUMANITIES, INC.
3. GEORGIA SESQUICENTENARY COMMISSION

ANS: 5-16-83

Assigned:
Judge.
C. DeLoach
Court Reporter

CAUSE

(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

ABRIDGEMENT OF RIGHTS UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO U. S. CONSTITUTION

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11-29-83	Rec. #108858	$70.00
11-30-83	C/D668909	$70.00 (Notice of Appeal & Docketing Fee)
01-22-85	Rec. #112912	$70.00
01-23-85	C/D #676990	$70.00 (Notice of Appeal & Docketing Fee)

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DATE	RECEIPT NUMBER		C.D. NUMBER		CARD	DATE MAILED
02-11-83	#106074	$60.00	668540	02-14-83	JS-5	
02-14-83	#106089	$70.00	668541	02-15-83	JS-6	

DATE 1983	NR.	PROCEEDINGS	CV483-06
02-11	1	COMPLAINT/MOTION	motion for TRO, with comp. filed., JS 5 card prprd. bwh with exhibits attached.
02-12		CASE	called for hearing on TRO this date, with all parties being present. Mot. of deft, Historic Sav'h Foundation to dismiss TRO, reserved. Mot. of deft, Semiquinentenary Comm. to dismiss TRO, reserved. Pltf testified. Argument by pltf on mot. to dismiss. Court DENIES TRO. bwh
02-12	2	ORDER	reassigning case to Hon. Anthony A. Alaimo. bwh
02-12	3	NOTICE	of Appeal. Record prprd and sent to USCA, 11th Cir this date along with cert. cy of docket entries. cy of transmittal on all parties. (record sent by express mail)
02-16	4	ORDER	on application for TRO, the same is hereby denied. cys on parties. JS 6 card prprd. bwh
02-17	5	TRANSCRIPT	of hearing on application for TRO taken on 2-12-83 before Hon. Anthony A. Alaimo, Chief Judge. Transcript mailed to 11th Cir by express mail. bwh
02-18		SUPPLEMENTAL	record, consisting of original Order denying TRO, mailed to USCA, 11TH Cir. this date. bwh
02-23	6	NOTICE	of change of counsel of record for Ga. Semiquincentenary Comm. from Mark Dickerson to Gregory W. Blount. cy to USCA, 11th Cir. bwh
03-01	7	ANSWER	of deft, Historic Savannah Foundation, Inc. to pltf's complaint. Ltb
03-07		CASE	re-opened and JS 5 card prprd. Comp. and summons prprd a del. to pltf for svc. with proper forms. bwh
03-07	8	COPY LETTER	from Supreme Court of U.S.A. that review of pls applicati of TRO before District Court is denied. bwh
03-07	9	MOTION	of Ga. Semiquincentenary Comm. to dismiss, with brief in support. bwh
03-07	10	RESPONSE	of pltf to motion to dismiss. bwh
03-07	11	DEMAND	for jury trial by pltf, directed to Ga. Semiquincentenary Comm. bwh
03-07	12	DEMAND	for jury trial by pltf, directed to Historic Foundation, Inc. and Ga. Endowment for the Humanities. bwh
03-08	13	REQUEST	of pltf, for oral argument on all important motions. bwh
03-10	14	NOTICE	to take deposition of Ms. Kasey Jones on March 16, 1983. Subpoena issued and del. to Dr. Hubby.
03-14	15	RETURN	of service on deposition subpoena. Ms. Linda Allen serve for Ms. Kasey Jones on 03/14/83. Ltb
03-14	16	ANSWER	of pl to motion for protective order.mlg

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CIVIL DOCKET CONTINUATION SHEET

FPI-MAR—7-14-80-70M-41

PLAINTIFF	DEFENDANT	DOCKET NO. CV483-66
FRANK B. HUBBY	HISTORIC SAVANNAH FOUNDATION, ET AL	PAGE ___ OF ___ PAGE

DATE	NR.	PROCEEDINGS
1983		
03-14	17	MOTION of deft, Historic Savannah Foundation, for protective or
03-14	18	MEMORANDUM in support of motion for protective order. Ltb
03-14	19	NOTICE of motion by deft Historic Savannah Foundation. Ltb
03-14	20	MOTION of deft, Historic Savannah Foundation, to dismiss or alternatively for judgment on the pleadings. Ltb
03-14	21	MEMORANDUM in support of deft, Historic Savannah Foundation, Inc.'s motion to dismiss or alternatively for judgment on the pleadings. Ltb
03-14	22	ORDER granting deft's motion for protective order; it is furth ordered that the oral hearing on the motions to dismiss the defts is hereby set for Thursday, March 24, 1983, at 11:00AM in the 3rd floor courtroom in Savannah, Ga. "cys to parties". Ltb
03-17	23	MOTION of pltf to present evidence at the hearing on dismissal of pltf's complaint. Ltb
03-24	24	RESPONSE supplemental response of the plaintiff to motion for dismissal and argument and citation of authority in support of denial of defendants' motion to dismiss. dlh
03-24	25	AMENDMENT to plaintiff's response to motions to dismiss. dlh
03-24		CASE called this date on defts' motion to dismiss. All parti present and announced ready to proceed. Court reserves ruling. bwh
03-25	26	ACKNOWLEDGMENT of receipt of summons and comp., DOS on Ga. Semiquincent Comm. by atty, on 3-15-83. bwh
03-25	27	ACKNOWLEDGMENT of receipt of summons and comp., DOS on Ga. Endowment fo Humanities, Inc., on 3-14-83. bwh
03-25	28	ACKNOWLEDGMENT of receipt of summons and comp., DOS on Historic Sav'h Foundation on 3-7-83. bwh
03-28	29	MOTION of deft, Georgia Endowment for the Humanities, to dismis or alternatively for judgment on the pleadings. Ltb
05-04	30	ORDER that motions of defendants to dismiss or, alternatively, for judgment on the pleadings are DENIED. cys on all parties. bwh

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CIVIL DOCKET CONTINUATION SHEET

FPI—MAR—7-14-80-70M-4398

PLAINTIFF	DEFENDANT	DOCKET NO. 483-66
FRANK B. HUBBY	HISTORIC SAVANNAH, et al.	PAGE ___ OF ___ PAGES

DATE	NR.	PROCEEDINGS
1983 05-09	31	MOTION of pltf for an Order ordering the compliance with the subpoena to depose Kasey Jones. frs
05-13	32	NOTICE to take deposition of Ms. Kasey Jones on May 18, 1983 at 3:00 PM. Ltb
05-16	33	ANSWER of Ga. Semiquincentenary Commission.mlg
05-16	34	ORDER from Eleventh Circuit Court of Appeals dismissing appeal for failure of appellant to file brief. frs
05-17	35	MOTION for protective order by Historic Savannah Foundation, Inc. dlh
05-17	36	ORDER granting protective order in the above motion . cys on parties. dlh
05-18	37	NOTICE to take deposition of Mr. Jack Allen on May 25, 1983 at 1:00 P.M. Ltb
05-18	38	INTERROGATORIES of pltf to Dr. Ronald Benson, the Executive Director of the Georgia Endowment for the Humanities. Ltb
05-18	39	ANSWER of deft, Georgia Endowment for the Humanities, Inc. to pltf complaint. Ltb
05-18	40	NOTICE to take deposition of Dr. Ronald Benson on June 1, 1983 at 1:00 P.M. Ltb
05-20	41	NOTICE to take deposition of Ms. Kasey Jones on May 23, 1983 at 5:00 P.M. Ltb
05-25	42	NOTICE to take deposition of Ms. Betty Ellington on June 1, 1983 at 5:00 P. M. Ltb
06-06	43	NOTICE to take deposition of Mr. Pat Little on June 8, 1983 at 2:30 P.M. Ltb
06-07	44	NOTICE to take deposition of Ms. Judy Farrell on June 8, 1983 at 2:00 P.M. and Mr. Julius Hornstein and Ms. Betty Ellington. Ltb
06-10	45	NOTICE to take deposition of Historic Savannah Foundation for the years 1982 and 1983. dlh
06-10	46	NOTICE to produce documents on the State Semiquincentenary Commission. dlh
06-16	47	DEPOSITION of KACEY JONES RATTERREE.. dlh

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. CV483-66
FRANK B. HUBBY	HISTORIC SAVANNAH, ET AL.	PAGE ___ OF ___ PAGES

DATE	NR.	PROCEEDINGS	
1983			
06-22	48	MOTION	of pltf to compel witness to answer questions. Ltb
06-22	49	ARGUMENTS	of pltf in support of motion to compel witness to answer questions. Ltb
06-23	50	NOTICE	of deposition on MICHAEL VAQUER. dlh
06-23	51	NOTICE	of deposition on MS. BETTY ELLINGTON. dlh
06-23	52	INTERROGATORIES	follow up interrs for the Georgia Endowment for the Humanities. dlh
06-24	53	ANSWERS	to interrogatories. dlh
06-24	54	RESPONSE	of Georgia Endowment for the Humanities to Plaintiff's request for the Production of Documents. dlh
06-30	55	REQUEST	of pltf for leave of absence from July 15-25 and August 9-16, 1983. frs
07-05	56	RESPONSE	of deft, Semiquincentenary Comm. to pltf's notice to produce douuments, with attachments.
07-07	57	RESPONSE	of deft, Historic Savannah Foundation, Inc., to plft's motion to compel witness, Mrs. Kacey Jones Ratterree, to answer questions. dlh
07-14	58	INTERROGATORIES	of pltf to The Historic Savannah Foundation. Ltb
07-15	59	NOTICE	of depositions of MR. CHARLES WESSELS and MR. ERIC DUBOIS. dl
08-03	60	ANSWERS	to interrógatories by deft Georgia Endowment for the Humanities. dlh
08-04	61	REQUEST	for peremptory assignment. dlh
08-04	62	INTERROGATORIES.	to Mr. Eric Dubois. dlh
08-09	63	CERTAIN DOCUMENTS	produced by the Historic Savannah Foundation. Ltb
08-09	64	ADDITIONAL DOCUMENTS	produced by the Georgia Semiquincenteanry Commission. Ltb
08-09	65	ANSWER	of deft Historic Savannah Foundation Inc. to interrogatories. Ltb
08-15	66	MOTION	for leave to file amended complaint. Brief in support of motion. Order to Judge Alaimo. dlh

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PLAINTIFF	DEFENDANT	DOCKET NO. CV483-66
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1983 DATE	NR.	PROCEEDINGS	
08-16	67	OBJECTION	of deft, Historic Sav'h Foundation, Inc. to interrogs of pltf addressed to Mr. Eric Dubois. bwh
08-17	68	OPPOSITION	of Georgia Endowment for the Humanities to motion of pltf to file amended comp. bwh
08-17	69	ORDER	Pltf's request to amend complaint is granted. cys on parties dlh
08-22	70	NOTICE	of deposition on Mr. Henderson Formey. dlh
08-22	71	MOTION	by historic Savannah Foundation, Inc. to dismiss amended complaint. dlh
08-23	72	MOTION	to strike and expunge by Ga. Semiquincentenary Commission. Brief in support of motion. dlh
08-23	73	MOTION	for summary judgment by Deft Ga. Semiquincentenary Commission. Statement of facts, Brief in support. dlh
08-25	74	MEMORANDUM	brief of deft, Historis Savannah Foundation, Inc. in supp of its motion to dismiss the amended complaint of plainti
08-25	75	PRE-TRIAL NOTICE	mailed this date. Ltb
08-29	76	ANSWER	of pl to motion to strike; memo in support.mlg
08-29	77	ORDER	granting deft, Historic Savannah Foundation Inc.'s object to interrogatories of pltf addressed to Eric Dubois, said interrogatories need not be answered. "cys on parties" Lt
08-31	78	REQUEST	of pltf for leave of the Court to amend complaint so as t name Mr. B. H. Levy , The Chairman of the Georgia Semiqui commission, as a co-deft. Ltb
09-01	79	ANSWER	of pltf to the motion by the Georgia Semiquincentenary Commission for summary judgment. Ltb
09-01	80	ANSWER	of deft, Georgia Semiquincentenary Commission to pltf's amended complaint. Ltb
09-06	81	ORDER	granting pltf's request for leave of court to amend compl "cys on parties" Ltb
09-06	82	WITHDRAWAL	by pltf of motion to compel witness to answer questions.
09-13	83	MOTION (deft)	for reconsideration of an order granting pltf's request for leave to amend and add B.H. Levy, Sr. as a co-deft. bw
09-13	84	BRIEF	in support of above motion. bwh

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. cv483-66
FRANK B. HUBBY, M.D.	HISTORIC SAV'H FOUNDATION, et.al.	PAGE ___ OF ___ PAGES

DATE 1983	NR.	PROCEEDINGS	
09-16	85	REQUEST	by pltf for leave of Court to amend his pleadings, with brief in support of same attached. bwh
09-19	86	ANSWER	Pltfs answer to the Motion to dismiss amended complaint by the Historic Savannah Foundation with brief in support/gt
09-26	87	ANSWER	of pltf to request for admissions/ltt
09-30	88	REQUEST	of pltf for admissions/ltt
09-30	89	ORDER	pltf's motion for leave to amend is hereby DENIED. cys on parties. dlh
10-03	90	MEMORANDUM	of deft, Semiquincentenary Commission in opposition to pltf third request for leave to amend. Ltb
10-04	91	AFFIDAVIT	of Cynthia F. Stillwell/ltt
10-04	92	STATUS OF THE CASE	by pl.mlg
11-23	93	ORDER	granting summary judgment in favor of all defts. "cys on counsel" Ltb
11-23	94	JUDGMENT	entered in favor of defts and against pltf; case is dismissed. JS6 card. "cys on counsel" Ltb
11-29	95	NOTICE	of appeal of pltf; cert copy mailed to Clerk 11th Cir, COA together with cert copy of docket entries; filing fee paid/ew
11-29	96	APPEAL	Information sheet, transcript unnecessary/ew
12-1	97	DESIGNATION	Of record by pltf/ew
12-09	98	DESIGNATION	of record by deft/ew
12-15	99	RECORD ON APPEAL	mailed to the 11th Circuit on this date/ew
12-22	100	NOTICE/MOTION	of deft, Historic Savannah Foundation, Inc., for allowance of attorney's fees. Ltb
12-23	101	MOTION	of deft, Georgia Semiquincentenary Commission and R. H. Lev Sr., for attorney's fees. Ltb
12-23	102	BILL OF COSTS	entered this date. Ltb
12-23		COSTS	are hereby taxed in the following amount: $676.68. "cys on counsel" Ltb

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PLAINTIFF	DEFENDANT	DOCKET NO. CV483-066
FRANK B. HUBBY, M. D.	HISTORIC SAVANNAH FOUNDATION, ET AL	PAGE ___ OF ___ PAGES

DATE	NR.	PROCEEDINGS	
1983			
12-23	103	BILL OF COSTS	of Georgia Semiquincentenary Commission & B.H. Levy, Sr. entered this date in the amount of $359.45/ew
12-23	104	COSTS	are hereby taxed in the following amount: $359.45. cys on counsel/ecw
12-23	105	BILL OF COSTS	of Georgia Endowment for the Humanities entered this date in the amount of $159.17/ecw
12-23	106	COSTS	are hereby taxed in the following amount: $159.17. cys on counsel/ecw
12-23	107	MOTION	of Georgia Endowment for Attorney's fees/w
12-23	108	BRIEF	in support of Bill of Costs of deft Georgia Semiquincentena Commission & B.H. Levy, Sr./ew
12-30	109	NOTICE	of motion of deft, Ga. Endowment for the Humanities for allowance of atty's fees. Rww
1984			
01-05	110	MOTION	of pltf to Hold in abeyance the levying of costs, atty's fee and the like for the completion of the appeal. Ltb
01-20	111	MOTION	of deft, Historic Savannah Foundation Inc., for award of att fees against the pltf. Ltb
01-20	112	MEMORANDUM	of deft, Historic Savannah Foundation Inc., in support of it motion to cast as costs against the pltf, its attys fees. Lt
01-20	113	AFFIDAVIT	of John E. Simpson. Ltb
01-26	114	RESPONSE	of pltf on defts' request to cast as costs attorney's fees.e
02-13	115	MOTION	of deft. for award of attorney fees with affidavit and brief in support. jgd
02-28	116	RESPONSE	of pltf to Motion and Brief by the Georgia Endowment for the humanities for attorney's fees/gh
Mar. 30	117	SUPPLEMENT	to motion of the Ga. Endowmwnt for the Humanities, Inc's motion and brief for atty fees/Rww
Jun 11	118	SECOND SUPPLEMENT	to motion of the Ga. Endowment for the Humanities, Inc.'s mot and brief for atty fees/ew
Jul 11	119	MANDATE, USCA	affirming judgment with opinion/Ltb
Jul 13	120	ORDER	making the judg of the 11th Circuit the judg of this Court. cc: attys/mlg

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PLAINTIFF	DEFENDANT	DOCKET NO. 483-066
FRAN B. HUBBY, M.D.	HISTORIC SAVANNAH FOUNDATION, ET AL	PAGE ___ OF ___ PAGES

DATE	NR.	PROCEEDINGS	
1984			
Jul 23	121	THIRD SUPPLEMENT	to mot of the Ga. Endowment for The Humanities, Inc's mot and brief for atty's fees/ew
Jul 27	122	SUPPLEMENT	to motion of deft, Historic Sav. Foundation for award of atty's fees against the pltf/bwh
Jul 27	123	SUPPLEMENTAL	bill of costs of Historic Savannah Foundation against pltf in amt of $121.37/mlg
Aug 29	124	RENEWED MOTION	of State of Ga. & B. H. Levy, Sr. for atty's fees;brief/ml
Aug 30		STATUS CONF.	on issue of attys fees, Court will have a formal hearing after U. S. Supreme Court decides certiori./bwj
Aug 30	125	BILL OF COSTS	of deft, Georgia Endowment for the Humanities in the amount of $450.71/bwh
Aug 30	126	FOURTH SUPPLEMENT	to motion of the Ga. Endowment for the Humanities, Inc. 's motion and brief for atty's fees/bwh
Aug 30	127	MOTION	of defts to enter proposed order on application of defts fo attys fees with brief in support/bwh
Oct 09	128	PETITION	of pltf for status conference, for certiorari and attys fee /Ltb
Oct 09	129	CONFERENCE	held by telephone; Dr. Hubby advised court he did not wish to settle on attorney's fees. Court will set hearing on attys fees for week of October 22, 1984/ew
Oct 22	130	MOTION	of Gilbert L. Stacy to Quash subpoena/ew
Oct 23	131	MOTION	of pltf for continuance of hearing on deft's motion for attorney fees/frs
Oct 23		HEARING	on deft's motion for attorney fees scheduled for this date in Savannah; Court grants pltf's motion for continuance and directs pltf to submit affidavits within 10 days/frs
Nov 02	132	SUPPLEMENTAL BRIEF	of pltf in opposition to defts' mot for atty's fees and cos
Nov 08	133	SUPPLEMENTAL BRIEF	of deft, Historic Savannah Foundation, Inc. and affidavit in support of its mot for award of atty's fees/ew

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PLAINTIFF	DEFENDANT	DOCKET NO. 483-066
FRANK B. HUBBY, M.D.	HISTORIC SAVANNAH FOUNDATION, ET AL	PAGE ___ OF ___ PAGE

DATE	NR.	PROCEEDINGS
1984		
Nov 12	134	REPLY BRIEF by State of Georgia to pltf's supplemental brief in opposition to award of atty's fees and costs/ew
Nov 12	135	REPLY of Georgia Endowment for the Humanities to pltf's brief filed Nov. 2, 1984 and received Nov. 6, 1984 seeking to defeat defts claim for attys/ew
Nov 12	136	AFFIDAVIT of James T. Langford, atty for Georgia Endowment/ew
Nov 12	137	AMENDMENT of Georgia Endowment to proposed Order filed August 30, 1984/ew
Nov 12	138	FIFTH SUPPLEMENT to mot of Georgia Endowment for the Humanities, Inc.'s mot and brief for atty's fees/ew
Nov 12	139	AFFIDAVIT of James T. Langford/ew
1985		
Jan 17	140	ORDER granting defts mot for atty's fees in the amount of $14,136.05 t HSF; $14,528.84 to GEH; and $5,962.45 to GSC. The sum total of $34,627.34. cc: attys/ew
Jan 17	141	JUDGMENT entered granting defts' mot for atty's fees in the amount of $14,528.84 to Georgia Endowment for the Humanities, Inc.; $14,136.05 to Historic Savannah Foundation and $5,962.45 to Georgia Semiquincentenary Commission. The sum total of $34,627.34 cc: attys/ew
Jan 22	142	NOTICE OF APPEAL by pltf. Cert copy of NOA, docket sheets & judgment to Clk, USCOA. cc: attys/ew
Jan 24	143	MOTION of pltf to supplement the record as to include to deposition of Mr. John Allen, President of the Historic Savannah Foundat taken June 21, 1983/ew
Jan 25	144	DESIGNATION of record of pltf/ew
Jan 28	145	OPPOSITION of The Georgia Endowment for the Humanities to Dr. Hubby's mo to supplement of record/ew
Jan 28	146	MOTION of The Ga. Endowment for clarification of atty/client relationship/ew
Jan 28	147 (152)	MOTION of The Ga. Endowment for setting of Supersedeas Bond/ew
Jan 31	148 (152)	MOTION of deft, Historic Savannah Foundation, Inc. to set Supersedea Bond/ew

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PLAINTIFF	DEFENDANT	DOCKET NO. 483-066
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DATE	NR.	PROCEEDINGS	
1985			
Feb 05	149	ADDITIONAL DESIGNATION	of the record by deft, Historic Savannah Foundation, Inc./ew
Feb 06	150	ORDER	allowing pltf's counsel, Albert N. Remler and Devaul L. Henderson, Jr. to withdraw as counsel of record. cc: attys/ ew
Feb 06	151	RESPONSE	to mot for Supersedeas Bond/ew
Feb 07	152	ORDER	denying defts' mots to require pltf to post a supersedeas bond. cc: attys/ew
Feb 11	153	STATEMENT	of Georgia Endowment for the Humanities concerning the District Court record and the record on appeal/ew